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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

URUGUAY

1. The Committee considered the initial report of Uruguay (E/1990/5/Add.7) at its 3rd, 4th, 6th and 13th meetings, held on 3, 4 and 10 May 1994, and adopted* the following observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for submitting a report in September 1991 and of a core document in 1992. However, it regrets the delay between the submission of the report and its consideration by the Committee, due to the State party's request to defer that consideration for two sessions. The Committee also regrets that certain matters were not fully clarified during the initial dialogue with the State party. The Committee therefore requests the State party to provide it with written replies on the problems identified and to transmit that information to the Centre for Human Rights by 30 September 1994.

B. Positive aspects

3. The Committee notes with satisfaction that a number of rights guaranteed by the Covenant have been incorporated in Uruguay's legislation, and in particular its Constitution. It also takes note of the concrete measures taken to comply with the obligations laid down in the Covenant. In that

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* At its 25th meeting (tenth session), held on 19 May 1994.

connection, it welcomes the progress made by the State party in ensuring free primary education for all and in making secondary and higher education free of charge and more accessible to all. In addition, the Committee notes with satisfaction that the State party has adopted social security measures aimed at off-setting the adverse consequences for the enjoyment of economic, social and cultural rights of the economic recession and the structural adjustments entailed by Uruguay's accession to the "Mercosur" economic agreement.

4. The Committee also regards the steps taken by the State party to provide further training to unemployed persons as a positive development.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee notes the economic difficulties encountered by the State party, particularly the high rate of inflation, which impede the full implementation of economic, social and cultural rights.

D. Principal subjects of concern

6. The Committee is concerned by the apparent lack of measures to enable workers' and employers' organizations to participate in the discussions on the determination of minimum wages for public-sector employees and agricultural workers for the period 1990-1994.

7. The Committee would welcome clarification of the restrictions on the right to strike introduced by Act No. 13,720 of December 1968, as amended by Decree-Law No. 14,781 of 8 June 1978, and would like to have further details of the application of those provisions between the return to democracy and 1994. It would also like to be informed of any bill regulating the exercise of the right to strike, since paragraph 104 of the State party's report indicated that such a bill would be submitted shortly.

8. The Committee would also appreciate additional information on the measures taken to raise the minimum working age and to prevent or combat the exploitation of child labour. To that end, it would welcome information on the actual situation regarding the distribution of free school meals and the concrete measures taken to reduce truancy.

9. With regard to the implementation of article 11 of the Covenant, and more particularly the right to housing, the Committee is concerned by the shortage of housing in relation to demand and the high level of rents, particularly affecting the most vulnerable groups of society. It would like to have additional information on these two points.

10. The Committee is also concerned by the standard of living of persons in rural areas, particularly those close to borders with neighbouring countries, and would welcome further information on their full access to economic, social and cultural rights.

11. The Committee is concerned about the impact of inflation on the enjoyment of an adequate standard of living. The Committee would like to receive specific information on the evaluation of average wage rates in relation to the cost of living since 1990.

12. The Committee also considers that it has not been given enough information on access to health, drinking water, care and education by minority groups living in Uruguay, as well as access by such groups to various types of employment, inter alia in the public service.

13. The Committee is greatly concerned by the serious deterioration of teachers' salaries in terms of purchasing power, by the conflictual nature of relations between teachers and the State and by the apparent ineffectiveness of the measures taken to remedy that situation.

E. Suggestions and recommendations

14. In light of the information submitted by the delegation and of other available sources, the Committee considers that Uruguay is making appreciable efforts to observe the economic, social and cultural rights provided for in the Covenant. However, the report submitted by the State party is not sufficiently precise and is incomplete to give a comprehensive account of those efforts. Consequently, the Committee would like to receive supplementary replies to the questions raised in part D of the conclusions.

15. In addition, the Committee would like the State party to consider the possibility of ratifying the Protocol of San Salvador additional to the American Convention on Human Rights.

16. The Committee urges the State party to take measures to eliminate all forms of discrimination. In this connection it draws the Government's attention to its General Comment No. 3 (1990) dealing with the nature and scope of State party's obligations under the Covenant.

17. With respect to the implementation of article 7 of the Covenant, and in the light of the comments made by the ILO on compliance with the requirements of the Minimum Wage Fixing Convention, No. 131, the Committee calls upon the State party to take steps with a view to fixing the national minimum wage for agricultural workers and public-sector employees in consultation with employers' and workers' representatives.

18. The Committee recommends that the State party should adopt urgent measures to increase the purchasing power of teachers' salaries and take that recommendation into account in the next budget of the national five-year plan.

19. The Committee urges the State party to take steps to improve health care for people living in areas distant from the capital, in particular by extending its primary health care programme.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights:

ROMANIA

1. The Committee considered the second periodic report of Romania on articles 13-15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/7/Add.14) at its 5th, 7th and 13th meetings held on 4,5 and 10 May 1994 and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee thanks the Government of Romania for its report, which was prepared in accordance with its revised general guidelines, and for submission of the core document forming part of the reports of States parties (HRI/CORE/1/Add.13). At the same time, the Committee notes that the written information, provided by the Government in reply to the questions set out in the list of issues (E/C.12/1994/WP.2) communicated to it in December 1993, has not been made available to the Committee sufficiently in advance to make possible its translation into all working languages of the Committee thus making more difficult access for Committee's members to the wealth of additional information contained therein. The supplementary information provided by the representatives

1/ At its 25th and 26th meetings (tenth session), held on 19 May 1994.

of the State party and the strong efforts made by the delegation to respond to the questions raised by the Committee's members made it possible to engage in an open, frank and constructive dialogue between the State party and the Committee.

B. Positive aspects

3. The Committee notes with appreciation that the content of the written report and of its oral presentation differ considerably, for the better, from the consideration of Romania's report on articles 10 to 12 in 1988. The new approach of the Government of Romania to international cooperation in the field of human rights, as manifested during the present session, opens new avenues for effective cooperation between the Committee and the State party within the framework of the International Covenant on Economic, Social and Cultural Rights.

4. The Committee welcomes the efforts made by the State party to carry out a number of programmes and reforms designed to solve the serious economic, social and cultural problems being encountered by the country in its transition to a market economy and to a pluralist democratic political system based on the rule of law and respect for human rights.

5. The Committee appreciates the willingness and the readiness of the Government to cooperate with various regional and global intergovernmental and non-governmental institutions in the field of human rights. In this context, it takes particular note of the cooperation between the Government of Romania and the United Nations Centre for Human Rights under the Country Programme for the period 1992-1994.

6. The Committee notes that all forms of public education are free in Romania and the particular attention paid by the Government, in a difficult economic context, to the provision of adequate educational facilities for the most disadvantaged groups of children, including the setting up of special schools for children with disabilities.

7. The Committee takes note of the recognition of the principle of university autonomy, provided for and guaranteed in accordance with article 32, paragraph 6 of the Constitution.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that the structural adjustment programme, now being implemented in Romania, may have adverse consequences for the implementation of economic, social and cultural rights in general and of the rights enshrined in articles 13 and 15 of the Covenant, in particular.

9. It notes that great practical difficulties exist in the teaching field, especially in terms of a shortage of qualified staff and a lack of adequate premises. Classes are usually overcrowded in spite of a shift system used (with as many as three shifts a day in the same school). Educational materials and necessary technical facilities are also in short supply. In addition, the Committee notes difficulties flowing from the need to develop comprehensive new curricula.

D. Principal subjects of concern

10. The Committee notes with concern that the whole system of education in Romania is functioning on the basis of Governmental decrees and that since the Revolution of 1989 no specific laws have been adopted in this respect.

11. The Committee is concerned at the absence of a law on minorities in a country such as Romania, given the existence of large Gypsy, Hungarian, German and other minority groups.

12. The Committee is particularly concerned about the realization of the right to education and of the right to take part in cultural life by one of the largest minorities in Romania, namely the Gypsy minority. That group, according to the information at the Committee's disposal, continues to suffer many forms of unofficial discrimination which the Government is often unable to prevent or is unwilling to redress. Gypsies continue to face discrimination in work-places and schools and greater efforts should be made to accommodate the specific cultural and other needs of those groups in relation to these matters. The Committee is concerned that, since the Revolution of 1989, no appreciable improvement has occurred in their situation, and that direct and indirect discrimination appears to continue, especially at the local level.

13. The Committee is also concerned about the silence in the report with respect to the difficulties encountered by the State party in implementing rights contained in articles 13 to 15 and about the lack of information on the enjoyment of the right to education and the right to take part in cultural life by the Gypsy minority.

14. The Committee wishes to draw the State party's attention to the absence of any reference in the core document to economic, social and cultural rights and to any efforts made for their implementation.

E. Suggestions and recommendations

15. The Committee recommends that the State party should take vigorous steps to ensure that the right to education and the right to take part in cultural life be guaranteed to the members of the Gypsy minority in full accordance with the provisions of articles 2 (2), 13 and 15 of the Covenant. The Government should: adopt an active non-discrimination policy with respect to this minority; encourage their participation in cultural life; and assure proper participation in educational activities by children belonging to that group.

16. The Committee also recommends that particular attention be paid by the Government to the problem of street and abandoned children, and that further efforts be made to facilitate their access to all forms of primary and secondary education.

17. The Committee recommends that the Romanian Human Rights Institute, established at the beginning of 1991 in order to "foster a better awareness on the part of Romanian public bodies, non-governmental organizations and private citizens of human rights problems", should, in the future, devote greater attention to economic, social and cultural rights.

18. The Committee, having noted that a joint human rights programme has been implemented in Romania by the United Nations Centre for Human Rights since 1992, encourages the Government of Romania to continue its cooperation with the United Nations and recommends that this programme be continued in the future. The Committee also recommends that an economic, social and cultural rights component, which is now practically non-existent, be adequately reflected in that programme.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

MOROCCO

1. The Committee considered the initial report of Morocco (E/1990/5/Add.13) at its 8th, 9th and 10th meetings held on 5, 6 and 10 May 1994 and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee thanks the State party for the submission of its report and for the additional information provided by the delegation in response to the Committee's questions and comments.

B. Positive aspects

3. The Committee takes note with satisfaction of the information provided by the representative of the State party with regard to the adoption of a revised Constitution in September 1992 and the various measures introduced in this new Constitution, including in particular the establishment of a Constitutional Council and an Economic and Social Council.

1/ At its 26th and 27th meetings, held on 19 and 20 May 1994.

4. The Committee appreciates the measures taken to reduce the effects of structural adjustment programmes on the most vulnerable sectors of society and measures taken by the State party to reduce the level of poverty in the country. Efforts to improve the enjoyment of the right to adequate housing are also appreciated.

5. The Committee welcomes the efforts made by the State party in the field of health services resulting in the reduction of infant and maternal mortality rates, as well as the adoption of a National Plan of Action for the implementation of the World Declaration on the Survival, Protection and Development of Children.

6. The Committee takes note of the increase in the level of school attendance, the efforts to reduce illiteracy and the measures to ensure vocational training for school drop-outs.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes that the development process towards modernization has not equally affected all sectors and areas of society and has aggravated economic, social and cultural disparities between traditional and modern sectors, among the various income groups, between rural and urban areas, as well as between male and female population.

8. It observes that economic difficulties, including the persistence of poverty, high unemployment and the servicing of the external debt have had a constraining influence on the application of the Covenant.

9. Other difficulties noted by the Committee relate to the contradiction between the obligations set forth under the Covenant and various provisions relating to the civil law status governed by the Code of Personal Status (mudawana) which is partly based on religious precepts and falls within the King's competence. The Committee considers that when a State has ratified the Covenant without making any reservations, it is obliged to comply with all of the provisions of the Covenant. It may therefore not invoke any reasons or circumstances to justify the non-application of one or more articles of the Covenant, except in accordance with the provisions of the Covenant and the principles of general international law.

D. Principal subjects of concern

10. As regards Western Sahara the Committee is concerned that the right to self-determination has not been exercised and expresses its hope that it will be exercised in full compliance with the provisions of article 1 of the Covenant, in accordance with plans approved by the United Nations Security Council. The Committee expresses its preoccupation about the negative consequences of the Western Sahara policy of Morocco for the enjoyment of the economic, social and cultural rights of the relevant population, particularly through population transfer.

11. In view of the obligations arising out of article 2 to guarantee the exercise of the rights enunciated in the Covenant without discrimination of any kind, the Committee expresses concern about the persistence, in the State

party, of a "dual" society characterized by disparities in the level of modernization and enjoyment of economic, social and cultural rights which particularly affect persons living in rural areas. These disparities are particularly evident in the existence of marked differences in the levels of school attendance. According to the report submitted by the State party, the rate of primary school attendance in the urban areas is double that of the rural regions.

12. In the same respect, the Committee is concerned with the extent to which women enjoy the rights contained in the Covenant, in particular as regards matters arising under articles 6, 7, such as equal remuneration for equal work and employment opportunities, article 10, particularly relating to status of women in family, and article 13, particularly in relation to the right to education. While recognizing that some progress has been achieved in this regard, the Committee notes with particular concern the gender differences regulating marriage and family relations.

13. The Committee takes note of the information provided by the States parties to the effect that a Labour Code is under preparation. It notes, however, that according to information provided by the ILO, this process has been under way since 1969. The Committee considers that this project should be brought to function in the shortest possible time in order to ensure full protection of the rights recognized in the Covenant.

14. The Committee is also concerned that labour laws and regulations are largely ignored or disregarded in the informal and traditional sectors of the economy and that the absence or limited presence of labour inspectors in these sectors has impeded the effective implementation of regulations relating to just and favourable conditions of work, including health and safety of the workplace.

15. The Committee is concerned over the full enjoyment of trade union rights as provided for under article 8 of the Covenant. In this regard, the Committee notes with concern that although the Constitution guarantees the right of association and the right to form and join trade unions, as well as the right to strike, these rights have on several occasions reportedly been violated in practice. The Committee has received from various sources information on concrete cases of limitations to the right to strike, and lack of effective protection of workers against anti-union discrimination including arbitrary dismissal, arrest or physical violence. In this regard the replies given by the Government to certain questions posed by the Committee cannot be considered satisfactory. No information was provided about the incidents at the Meknès, DIMAPLAST and COMANAN enterprises. The Committee is particularly concerned, however, about the lack of any response concerning the case of the two trade union activists Abdelhaq Rouissi and Houcine El Manouzi, who, according to non-governmental sources disappeared in 1964 and 1972 respectively and are reportedly still alive but detained in a secret prison.

16. The Committee is concerned about the discriminatory status of children born out of wedlock. It also expresses concern at the incidence of child labour, often even under the minimum legal age of 12, and the lack of

implementation of protective labour legislation with regard to children employed as domestic servants, in agriculture or in the informal or traditional sectors. The Committee also notes with concern that many of those children are not fully enjoying their right to education.

17. The Committee is also concerned that the economic constraints have led to a decline in the standard of living of certain segments of the population.

E. Suggestions and recommendations

18. The Committee recommends further measures by the State party to reduce existing disparities between the modern and traditional sectors of society and in particular between the rural and urban areas. In the Committee's view, particular efforts should be made to tackle the problem of discrimination against women and ensure their effective enjoyment of their rights under the Covenant. Such efforts should include both legislative measures and educational activities aimed at overcoming the negative influence of certain traditions and customs.

19. The Committee wishes to bring to the attention of the State party the need to adopt further measures to provide adequate safety nets for the vulnerable sectors of society affected by structural adjustment programmes. Such measures should include a system of taxation favouring direct and progressive taxes and the extension of the social security system to those categories which do not yet benefit from it.

20. The Committee recommends that the State party envisage adopting further measures to reduce the high rate of unemployment among young people.

21. The Committee recommends that the State party consider adopting relevant measures to ensure that effective sanctions are adopted and implemented in order to penalize the infringement of labour and trade union freedoms and regulations. The Committee suggests that the State party should give serious consideration to complaints concerning violations of labour regulations and trade union rights and provide judicial remedy to victims of such violations.

22. The Committee recommends that urgent steps should be taken in order to protect the workers' rights to join the trade unions of their choice, and to provide protection against arrest, imprisonment and arbitrary dismissal of their labour leaders. In the context of trade union freedoms, the Committee requests the Government to respond to the concrete issues raised in paragraph 15 above, in particular to provide information about the fate of the trade union activists Abdelhaq Rouissi and Houcine El Manouzi, by 30 September 1994.

23. The Committee recommends that measures be taken to eliminate discrimination and ensure effective protection against discrimination with regard to children born out of wedlock, as well as any differentiation resulting from the status of parents. Similarly, the Committee encourages the

efforts currently under way to raise the minimum working age of employment and suggests that measures be taken to ensure that working children, including in the informal sector and in agriculture, benefit from relevant protection at work and effectively enjoy their right to an education.

24. The Committee recommends that more effort should be made in the area of education, particularly in the less favoured rural areas, and that an effort should also be made in the direction of reducing the apparent disparities that exist between the rate of school attendance among boys and girls.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

IRAQ

1. The Committee considered the second periodic report of Iraq on articles 13-15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/7/Add.15) at its 11th and 14th meetings held on 9 and 10 May 1994 and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee takes note that despite the serious situation in the country the Government has been able to present its report and send a delegation to engage in a dialogue with the Committee. At the same time the Committee regrets that the information provided in the report was insufficient and that the representatives of the State party were unable to provide answers to a number of concerns raised. The Committee takes note of the delegation's willingness to provide it with written information on those issues.

3. The Committee also recognizes that the situation in Iraq is being closely followed by various United Nations bodies, including the Commission on Human Rights, the General Assembly and the Security Council and the Committee takes note of the reports emanating from and resolutions adopted by such bodies.

1/ At its 26th and 27th meetings (tenth session) held on 19 and 20 May 1994.

In this regard, it notes that although the Law for the Autonomous Region (in the North) exists its implementation has been suspended since 1974. Similarly, the Committee takes due note of the request contained in, inter alia, Commission on Human Rights resolution 1993/74 that a human rights monitoring team be accepted by the State party and suggests that the mandate of such a team include monitoring the implementation of the rights provided for under the present Covenant, including its articles 13 to 15.

B. Positive aspects

4. The Committee takes note of the State party's policy to provide education at all levels free of charge and to enhance the provision of education in remote areas, through the awarding of additional allowances to teachers serving in those areas.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee is aware that problems caused by long periods of war and their aftermath have hampered the implementation of the Covenant in the State party.

D. Principal subjects of concern

6. The Committee is deeply concerned that the measures being taken by the State party are not sufficient to avoid continued suffering, and even greater deprivation of the economic, social and cultural rights, of the Iraqi people. The Committee is of the opinion that whatever the difficulties caused by the economic embargo, the States parties should none the less do everything possible to promote the realization of the Covenant to the maximum of its available resources.

7. In addition, the Committee considers that sufficient attention has not been given to the implementation of article 2 of the Covenant, as it relates to non-discrimination, in respect of the policies and measures adopted to promote and protect the economic, social and cultural rights, provided for under articles 13 to 15 of the Covenant, of all persons within the jurisdiction of the State, including, in particular, women and persons belonging to various cultural groups.

8. The Committee notes the lack of information on the implementation of the provisions of article 13, paragraph 1, specifically in respect to human rights education.

9. In connection with the implementation of article 13 of the Covenant, the Committee wishes to emphasize the fundamental importance of according equal priority to the education of women, including with regard to the eradication of illiteracy.

10. The Committee expresses its dissatisfaction at the lack of available statistical and other data which would assist in determining the extent of equality of educational opportunity existing within the country for various sectors of the Iraqi population.

11. The Committee is seriously concerned at reports it has received of infringements of academic freedom within the State party.

12. The Committee is alarmed at information brought to its attention concerning the destruction of the cultural heritage of religious communities and minorities.

13. Equally, the Committee is concerned that clarification remains to be given by the State party as to the compatibility of the steps taken by the Government in its exercise of control over the choice and broadcasting of minority language radio programmes with the implementation of the provisions of the Covenant, including its article 15, paragraph 2.

14. Moreover, the Committee is concerned at the reports brought to its attention of the adverse impact of recent drainage programmes in areas inhabited by "Marsh Arabs" on the community's ability to conserve its culture and traditional lifestyle and to exercise its right to education.

E. Suggestions and recommendations

15. The Committee is of the view that further measures are required to ensure the effective monitoring and implementation of the rights provided for under articles 13 to 15 of the Covenant. In this regard attention is drawn to the contents of General Comment 3 of the Committee and to the obligation of States parties to take the necessary steps to the maximum extent of resources for the implementation of the rights provided for under the Covenant.

16. The Committee requests to provide full information in the next report on the measures taken to implement article 13, paragraph 1 of the Covenant, in particular in relation to human rights education.

17. The Committee also recommends that the State party adopt the necessary measures to accord greater priority to the education of women, including the eradication of female illiteracy.

18. The Committee would appreciate receiving statistical data and other information relating to the admission and graduation of students, particularly of those belonging to religious and ethnic minorities and communities, within different higher educational establishments over the last three years.

19. The Committee would also appreciate receiving written information regarding the situation of the "Marsh Arabs", the closure of a Shiah college of jurisprudence and other concerns raised during the dialogue with the State party which remained unanswered. In this regard, the State party should refer to the present concluding observations and the summary records of the dialogue with the Committee. Finally, the Committee requests that this information be submitted to it by 30 September 1994.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

BELGIUM

1. The Committee considered the initial report of Belgium on articles 1 to 15 of the Covenant (E/1990/5/Add.15) at its 15th, 16th and 17th meetings on 11 and 13 May 1994 and adopted* the following concluding observations:

A. Introduction

2. The Committee thanks the State party for the comprehensive report submitted and for the detailed additional information, including extensive statistical data, provided both orally and in writing by the delegation in response to the Committee's questions and comments. The Committee regrets, however, that the report was submitted nearly 10 years late. In this regard, it takes note of the explanations provided by the Belgian Government according to which the delay was due to a number of concomitant factors connected, among other things, with the continuous process of reform of the State, which is reflected in changes in the responsibilities of its internal administrative authorities, with the density and complexity of the social welfare system created in Belgium, and with budgetary restraints which have a negative impact on the level of staffing of the country's public services. Nevertheless, the Committee wishes to emphasize that those explanations should not be considered by the Belgian Government as a justification. States parties must comply with

* At the 27th meeting (tenth session), held on 20 May 1994.

the reporting obligations they have freely assumed under the Covenant. The Committee hopes that the frank and excellent dialogue which has just begun between the Committee and the State party will continue in the future on a regular basis.

B. Factors and difficulties impeding the implementation of the Covenant

3. The Committee is concerned at the fact that Belgian authorities, referring to article 2, paragraph 1 of the Covenant, relating to progressive measures to be taken by States parties to implement the Covenant, are of the view that the provisions of the Covenant do not have direct effect and cannot be directly invoked by complainants before Belgian courts and tribunals. On the other hand the Committee notes that the International Covenant on Civil and Political Rights and other conventions, such as the European Social Charter, to which Belgium is a party, are directly applicable under Belgian law. The different status of the International Covenant on Economic, Social and Cultural Rights in domestic law appears to be confirmed by a decision of the Court of Cassation of 1990. The Committee does not share the view of the Belgian authorities and recalls that in its General Comment No. 3 of 1990 on the nature of States parties obligations under article 2 of the Covenant, it refers to a number of provisions in the Covenant, such as those of article 8 on the right to strike and those of article 13 on the right to education which seem to be capable of immediate application by judicial and other organs in many national legal systems. The Committee is of the view that any suggestions that the provisions indicated are inherently non-self-executing seem to be difficult to sustain.

C. Positive aspects

4. The Committee commends Belgium on the measures it has taken to give effect to the provisions of the Covenant and especially on the inclusion of economic, social and cultural rights in the new text of the Belgian Constitution of February 1994.

5. The Committee commends also the State party on its comprehensive health insurance system which could be considered as a model to follow by other countries. It notes with particular satisfaction that, since 1990, maternity insurance has constituted a specific branch of social security in Belgium and that maternity allowance no longer constitutes an obstacle to the hiring of women workers.

6. The Committee also notes with satisfaction the measures taken in Belgium to guarantee income for elderly persons and, in particular, to grant an allowance to elderly persons who have very limited means or a minimum pension.

7. In addition, the Committee welcomes the information that the legal provisions establishing criteria in the calculation of pensions, which appear to be discriminatory between men and women, are in the process of being reviewed in order to ensure equal treatment and to add an invalidity scheme.

8. The Committee also notes that with regard to strikes by public servants, in recent years disciplinary punishments had not been applicable and that the

Council of State in its ruling on the application of article 44 of the Royal Decree of 1991 stated that it implicitly guaranteed public servants' right to strike.

D. Principal subjects of concern

9. The Committee is concerned at the lack of legislative measures still existing in Belgium with regard to the establishment of clear and objective criteria to regulate the access of employers' and workers' organizations to the National Labour Council and to various commissions of the public and private sectors where collective conventions are elaborated. It recalls, in this connection, that the enactment of such legislative measures has been repeatedly recommended by the ILO Committee of Experts on Conventions and Recommendations.

10. In addition, the Committee notes with concern that the most vulnerable groups of society in Belgium are not always adequately protected. In this regard, it is particularly concerned at the reductions made in 1993 with regard to subsidies and certain social benefits, such as some categories of reimbursable medicines. The Committee regrets that this negative trend is developing in Belgium as well as in other European countries.

11. Moreover the Committee, while noting with satisfaction that the right to housing has been inscribed in the recently revised Constitution of Belgium, expresses concern at the adequacy of the measures taken to actually enforce that constitutional provision. In that respect the attention of the Government is drawn to Section E below.

E. Suggestions and recommendations

12. The Committee recommends that the right to strike be explicitly inscribed in Belgian law.

13. The Committee recommends that the legislative measures, which are under elaboration, to regulate the access of employers' and workers' organizations to the National Labour Council and other organs be speedily enacted.

14. The Committee recommends that Belgian authorities take appropriate measures to promote investment programmes and encourage, in particular, the construction of low-cost rental housing. In this connection, the Committee refers to its General Comment No. 4 of 1991 concerning the right to adequate housing and points out that in situations indicating a clear deterioration in the enjoyment of that right, urgent measures should be taken by the authorities concerned. The Committee, in view of the problems in the housing sector, which are still considerable, urges the Government to establish an official, nationwide Commission on Housing, comprised of representatives of Government, non-governmental organizations and other relevant groups. In view of the non-discrimination clauses contained in article 2 (2) of the Covenant, the Committee strongly urges the Government to fully ensure that persons belonging to ethnic minorities, refugees and asylum seekers are fully protected from any acts or laws which in any way result in discriminatory

treatment within the housing sector. In view of information received by the Committee that not all social housing units are occupied by lower income groups, the Committee urges the Government to undertake all necessary measures to ensure that lower-income groups have access to social housing which is affordable. The Committee urges the Government to more intensively apply existing laws allowing the Government to requisition properties and housing left unoccupied by owners.

15. Finally, the Committee requests the Government of Belgium to submit its second periodic report by 31 May 1997.

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AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

MAURITIUS

The Committee considered the state of implementation by Mauritius of the economic, social and cultural rights contained in the Covenant at its 22nd and 23rd meetings held on 17 and 18 May 1994, and adopted 1/ the following concluding observations:

A. Review of the implementation of the Covenant in relation to States parties which have failed to report

1. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, have not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

2. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it, to the Economic and Social Council, on the measures which they have adopted, the progress made, and the difficulties encountered in achieving the observance of the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates

1/ At the 23rd meeting (tenth session), held on 18 May 1994.

a severe obstacle for the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases, and must do so on the basis of all reliable information available to it.

3. In situations in which a Government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State party reporting and the Committee will provide an opportunity for the Government concerned to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policies with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a Government of this possibility to set the record straight.

B. Mauritius - Introduction

4. Mauritius has been a party to the International Covenant on Economic, Social and Cultural Rights since 3 January 1976, the date of its entry into force. Since then, it has not submitted a single report. The Committee strongly urges the Government of Mauritius to fulfil its reporting obligations as soon as possible, so that the International Covenant on Economic, Social and Cultural Rights can be given full effect for the benefit of the people of the Gambia. The Committee considers that non-fulfilment of a State party's reporting obligations constitutes a grave impediment to effective and adequate implementation of the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee takes note of the fact that, although Mauritius has in recent years succeeded in diversifying its economy and reducing its dependence on sugar production, sugar cane still accounts for more than two thirds of the contribution of the agricultural sector to GDP and for about one third of export earnings. This circumstance makes the economy of Mauritius vulnerable to fluctuations in sugar export. About 75 per cent of the country's food requirements have to be imported. The Committee also notes that the rapid economic growth of the mid-1980s has slowed down as a result of labour shortages. The Committee is not aware of any further difficulties which might impede the application of the Covenant by Mauritius.

D. Positive aspects

6. The Committee notes that the overall economic performance of Mauritius in recent decades has been impressive. Its human development index has increased from 0.525 in 1970 to 0.793 in 1992. Mauritius thus stands at the top of the list of African countries in this regard. Per capita income has trebled between 1982 and 1992. Unemployment is all but eradicated. This success has come about through heavy investment on human development. Education has until

recently been free at all levels. The combined primary and secondary enrolment rate has risen from 62 per cent in 1970 to 77 per cent in 1989. The overall literacy rate is mowing towards 90 per cent and has passed 95 per cent for the age group up to 30 years. A vigorous birth control campaign has brought the rate of population growth over two per cent a year in the 1960s down to less than one per cent today. The infant mortality rate as well as other health indicators are improving constantly. Mauritius provides an example of a country where structural adjustment appears to have worked to the benefit of the entire population. Mauritius has aptly been called a "cultural laboratory" and a "rainbow nation", in which a variety of religious and cultural groups and communities live together peacefully in a spirit of mutual respect and tolerance.

E. Principal subjects of concern

7. With regard to the general provisions of the Covenant, in particular article 3, the Committee notes with concern that, despite the efforts undertaken by the Government, women still occupy a subordinate role in Mauritian society. Discrimination and violence against women continue to be social problems, also affecting the enjoyment by women of economic, social and cultural rights. Further observations on the prevalence of gender discrimination are to be found in paragraphs 9 and 11.

8. Article 6 of the Covenant enshrines the right of everyone to gain his living by work which he freely chooses or accepts. In the light of this provision, the Committee is concerned about certain provisions of the Merchant Shipping Act, No. 28 of 1986, according to which certain breaches of discipline by seamen are punishable by imprisonment (involving an obligation to perform labour), and foreign seamen may be forcibly conveyed on board ships to perform their duties. These provisions are a subject of concern also to the ILO Committee of Experts on the Application of Conventions and Recommendations.

9. With regard to article 7 of the Covenant, there exists no legislation requiring equal pay for equal work. In this regard, the Committee notes with concern that in the agricultural sector of the Mauritian economy, for work of the same value, women are paid lower wages on the stated assumption that their productivity is lower in such labour-intensive work. The Committee is also concerned about excessive overtime work in the Export Processing Zones. In these zones the Labour Act does not apply fully which leaves more than 80,000 workers unprotected. Further, concern is expressed about the ineffective enforcement of health and safety standards, as a consequence of which fatal industrial accidents have increased in recent years. With regard to around 10,000 foreign workers, mainly the textile and construction industries, the Government appears to show little willingness to ensure that these people are treated in accordance with article 7 of the Covenant and with the pertinent international labour standards.

10. Moving to article 8 of the Covenant, the Committee expresses its concern about the restrictions of the right to form trade unions in force under the Industrial Relations Act, 1973. Further, genuine collective bargaining is not practised in Mauritius. Wages and benefits are in effect determined by the Government. The Committee is particularly concerned, however, about the fact

that the right to strike, although recognized in theory, cannot be exercised in practice because the Industrial Relations Act, 1973, requires a 21-day cooling-off period and empowers the minister to refer any industrial dispute to compulsory arbitration, enforceable by penalties involving compulsory labour. This has the effect of making most strikes illegal. Participation in a strike not approved by a court is a sufficient ground for dismissal. In this regard, the Committee notes with concern that the respective recommendations submitted in May 1992 by the Special Law Review Committee set up to review, inter alia, the Industrial Relations Act (Garrioch Committee) have not yet been released by the Government. Instead, the proposed Trade Union and Labour Relations Act, which is to replace the Industrial Relations Act, appears in some respect to be even less favourable to trade unions. The Committee still shares the hope of the ILO Committee of Experts that the Government will limit compulsory labour to services whose interruption is likely to endanger the life, personal safety or health of the whole or part of the population. However, it cannot but state a certain tendency on the part of the Government of Mauritius to use labour legislation to block trade union recognition and dismiss workers. The Committee's general impression is that Mauritius is returning to its original tradition according to which Government supports firm control by employers over their workers.

11. Regarding article 9, the Committee notes that according to the report submitted by the Government of Mauritius to the Committee on the Elimination of Discrimination against Women (CEDAW) in 1992 (para. 188), no employment insurance exists.

12. Concerning article 10, the Committee notes with regret that Mauritian child labour legislation is not strictly enforced. It further takes note of the Government's own view expressed in its recent report to CEDAW (para. 263), that Mauritius does not have a comprehensive system of family benefits through which all families benefit in a universal manner, and that the system of family allowances should be reviewed because the present regulations penalize the very families that need the allowance most (para. 275).

13. Regarding the right to food, the Committee is concerned about the fact that in June 1993 the Mauritian Government abolished subsidies on rice and flour without replacing them by a system that would guarantee food security for the most vulnerable groups of the population.

14. Regarding the right to housing, the Committee expresses its concern about the discontinuation of the Government's programme for providing low-cost housing in Mauritius. In this regard, the Housing Development Company Ltd., established in 1992, is in no position to replace the former Central Housing Authority, as was sadly demonstrated after the recent cyclone Hollanda. Further, concern is expressed with regard to Government harassment of hundreds of homeless people who built shacks on "State land".

15. With regard to article 12, the Committee notes the deplorable state of mental health care in Mauritius. It is also concerned about information according to which half of the maternal deaths since 1982 have been due to complications following abortion, which is prohibited by law.

16. With regard to article 13, the Committee takes note of the flaws in the educational system of Mauritius pointed out in the Government's 1992 report to CEDAW (para. 160) and of the measures foreseen to improve this situation (para. 162). In particular, it notes that the Mauritian school system is extremely competitive, which leads to widespread, Government-encouraged and costly private tuition and thus renders access to secondary and tertiary education more difficult for the poorer segments of the population. The Committee is also concerned about the re-introduction of fees at the tertiary level of education, which constitutes a deliberately retrogressive step. The Committee further notes with concern that Kreol and Bhojpuri, the only languages spoken by the large majority of the population, are not used in the Mauritian educational system.

17. Regarding article 15 of the Covenant, the Committee is concerned that the use of the two main languages spoken by 92 per cent of the population, namely Kreol and Bhojpuri, is still banned in the Mauritian National Assembly and actively discouraged in all Government institutions.

18. The Committee is also concerned that the population of the island of Rodrigues enjoys the right to health and the right to education to a markedly lesser degree than the people on the island of Mauritius itself.

F. Suggestions and recommendations

19. The Committee reiterates its request that the Government of Mauritius actively participate in a constructive dialogue with the Committee as to how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls to the Government's attention the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that Mauritius has been in breach of this obligation for many years.

20. The Committee recommends that the Government of Mauritius avail itself of the advisory services of the United Nations Centre for Human Rights in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

THE GAMBIA

The Committee considered the state of implementation by the Gambia of the economic, social and cultural rights contained in the Covenant at its 23rd meeting held on 18 May 1994, and adopted 1/ the following concluding observations:

A. Review of the implementation of the Covenant in relation to States parties which have failed to report

1. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, have not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

2. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it, to the Economic and Social Council, on the measures which they have adopted, the progress made, and the difficulties encountered in achieving the observance of the rights

1/ At the 23rd meeting (tenth session), held on 18 May 1994.

recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a severe obstacle for the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such cases, and must do so on the basis of all reliable information available to it.

3. In situations in which a government has not supplied the Committee with any information as to how it evaluates its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a State party reporting and the Committee will provide an opportunity for the government concerned to voice its own view, and to seek to refute such criticism and convince the Committee of the conformity of its policies with what is required by the Covenant. Non-submission of reports and non-appearance before the Committee deprives a government of this possibility to set the record straight.

B. The Gambia - Introduction

4. The Gambia has been a party to the International Covenant on Economic, Social and Cultural Rights since 29 March 1979, the date of its entry into force. Since then, it has not submitted a single report. The Committee strongly urges the Government of the Gambia to fulfil its reporting obligations as soon as possible, so that the International Covenant on Economic, Social and Cultural Rights can be given full effect for the benefit of the people of the Gambia. The Committee considers that non-fulfilment of a State party's reporting obligations constitutes a grave impediment to effective and adequate implementation of the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee takes note of the fact that the fulfilment by the Government of the Gambia of the obligations imposed by the International Covenant on Economic, Social and Cultural Rights cannot be evaluated without taking into consideration the political, economic and social conditions prevailing in the country at the present time. Although the Gambia has consistently held a prominent position in the promotion of human rights in Africa, within the framework of a political system of multiparty democracy, since the proclamation of its independence in 1965, its acknowledged political stability came under threat in the period before the general elections held in April 1992.

6. The Committee notes that the Gambia is one of the least developed countries in Africa and that poverty is widespread, especially in the rural areas where, according to UNDP figures, 200,000 people (25 per cent of the population) live below the poverty line. In terms of the human development index, the Gambia ranked 167th out of 173 in 1993.

7. The Committee notes in particular the socio-economic situation of women, whose disadvantage appears to be rooted in traditional practices and in lack of education, among other things.

8. The Committee also notes the absence until recently of a National Population Policy, the successful implementation of which could be a critical factor in translating optimistic growth projections into the improvement of living standards for all citizens of the Gambia.

9. The Committee further notes that, in spite of the widely acclaimed Economic Recovery Programme supported by the World Bank, benefits deriving from economic growth have not been equitably shared by all citizens. The rural population in particular continues to suffer deterioration in living standards.

D. Positive aspects

10. The Committee notes that human rights are constitutionally protected in the Gambia and that the Government exerts efforts to promote observance of human rights. In particular, it notes the establishment of the African Centre for Democracy and Human Rights Studies, which aims to promote greater respect for human rights in Africa. The Committee also notes that the Gambia is an active contributor to the work of the Organization of African Unity's Commission on Human and People's Rights.

11. The Committee welcomes the enactment of the Labour Act of 1990, which ensures the freedom to form associations including trade unions, protects the right to organize and bargain collectively, and also sets minimum standards of contracts in the areas of hiring, training, terms of employment, wages and termination of employment.

E. Principal subjects of concern

12. In relation to the rights contained in articles 6 to 9 of the Covenant, the Committee notes with concern that income levels of females generally remain below the government minimum wage scale, particularly those of the female labour force working in contract farming production. The Committee takes particular note that only 20 per cent of the labour force are in effect covered by minimum wage legislation while the remainder is informally employed, chiefly in agriculture.

13. The Committee also notes with concern that, as of January 1994, the Gambia had not ratified any of the International Labour Organisation (ILO) Conventions.

14. With regard to article 10 of the Covenant, the Committee expresses its profound concern over the situation of those women in the Gambia whose marriages are arranged for them by parents or guardians without their full and free consent as provided for in the Covenant. The Committee notes that polygamy is allowed in the Gambia, and observes that in accordance with articles 2 and 3 of the Covenant, the legal status of women should not be prejudiced.

15. With regard to the right to an adequate standard of living recognized in article 11 of the Covenant, the Committee is concerned about the reported inadequacy of food supply in the country. UNDP figures for 1992 show that 68.8 per cent of urban families did not have enough food and that the diet of 64 per cent of rural families was insufficient to withstand the rainy season. There are indications that chronic malnutrition among children could be as high as 40 per cent. The Committee regrets that it has no information on the right to housing in the Gambia.

16. Regarding the right to health in article 12 of the Covenant, the Committee expresses its deep concern over the extremely high maternal mortality rate of 1,050 per 100,000 live births. UNICEF identifies the main causes to be haemorrhage and infection related to the lack of access to and poor services. The Committee is equally concerned over the alarming UNDP figures of infant mortality and fertility rates of the Gambia, which are among the highest in Africa: 145.1 per 1,000 live births in 1986-87 and a 6.5 fertility rate during the same period. The Committee deplores the practice of female genital mutilation which is still prevalent in the Gambia. Independent experts report that more than half of the female population in the Gambia have undergone this procedure.

17. With regard to the right to education in article 13 of the Covenant, the Committee deeply regrets the absence of compulsory education in the Gambia and draws the attention of the Government to its obligation under the Covenant to ensure that "primary education shall be compulsory and available free for all". The Committee also draws the attention of the Government of the Gambia to the obligation, under article 14 of the Covenant, in cases where free compulsory education has not been assured, to "work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years," of the relevant right. The Committee expresses its concern not only at the high rates of illiteracy but also the gender disparities apparent in the figures. The latest UNICEF data reports that over 75 per cent of adults between the ages of 15 and 54 are functionally illiterate and that 90 per cent of the total are women. The same data source reports how women are disadvantaged educationally, females comprising only one-third of primary-school students and only one-fourth of high school students. The Committee is also concerned that, as a result of the absence of compulsory education legislation and because of the paucity of secondary school opportunities, most children complete their formal education by age 14 and informally enter the work force.

F. Suggestions and recommendations

18. The Committee reiterates its request that the Government of the Gambia actively participate in a constructive dialogue with the Committee as to how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls to the Government's attention the fact that the Covenant creates a legal obligation for all States parties to submit periodic reports and that the Gambia has been in breach of this obligation for many years.

19. The Committee recommends that the Government of the Gambia avail itself of the advisory services of the United Nations Centre for Human Rights in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Revised General Guidelines adopted by the Committee in 1990 (E/C.12/1991/1) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations.